

Washington, NY
Section 314, Aquifer Protection Overlay District Regulations
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REVIEW DRAFT

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TOWN OF WASHINGTON DUTCHESS COUNTY, NEW YORK

Local Law No. _____ of the Year 1988

Effective
TOWN OF WASHINGTON DUTCHESS COUNTY, NEW YORK

LOCAL LAW NO.

_____ OF THE YEAR 1988

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however that where this local law imposes a greater restriction upon the use of buildings or land, or upon the erection, construction, establishment, moving, alteration, or enlargement of buildings than are imposed by other ordinances, rules, regulations, licenses, certificates, or other authorizations, or by easements, covenant agreements, the provisions of this local law shall prevail. S, or

310. SCHEDULES

To facilitate public understanding and for convenience in administration, there is hereby declared to be a part of this local law a Schedule of Use Regulations (Appendix A), a Schedule of Area and Bulk Regulations (Appendix B), and an Off-Street Parking and Loading Schedule (Appendix C), which list: the uses permitted in each district, the minimum lot areas, minimum yard widths, building height limitations, off-street parking needs, and other basic requirements which, in some cases, are supplemented by other regulations in the local law.

311. Schedule of Use Regulations

In any district established by this local law, no premises shall be used,, and no building shall be erected, constructed, enlarged, altered, 'arranged, or designed to be used in whole or in part except for use as set forth in the accompanying Schedules of Residential and Non-Residential Use Regulations. Only those uses specifically listed shall be permitted.

312. Schedule of Area and Bulk Regulations

In any district established by this local law, no premises shall be used, and no building shall be erected, constructed, enlarged, altered, or arranged on a lot except in accordance with the requirements set forth in the accompanying Schedule of Area and Bulk Regulations. No yard or other open space provided around any building for the purpose of complying with the provisions of this Schedule shall be considered as providing a yard or open space for any other building, and no yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot.

313. Off-Street Parking & Loading Schedule

In any district established by this local law, off-street parking facilities shall be provided in accordance with the requirements set forth in the accompanying Off-Street Parking and Loading Schedule, except where additional parking may be required as a condition for the issuance of a special permit.

314. Aquifer Protection Overlay District Regulations

1. Purpose. The AQ Aquifer Protection Overlay District Regulations (hereinafter the "AQ District") are intended to preserve and maintain the quality and quantity of groundwater found in the Town of Washington sand and gravel, limestone, and limestone overlaid with sand and gravel aquifers, and thereby protect this water supply source for the Town. The AQ District provides a means of

reviewing, on a case by case basis, those actions or Uses proposed within the Town's aquifers in order to prohibit Uses and activities which may be incompatible with the goal of longterm groundwater protection.

2. Aquifer Protection Overlay District Description. The AQ District boundary is coextensive with mapped areas of sand and gravel, limestone, and limestone overlaid with sand and gravel deposits according to the Town's official Aquifer Protection Map. The Town Board shall adopt said map as a zoning amendment pursuant to Article V of this local law. Said map will identify the approximate locations of sand and gravel, limestone, and limestone overlaid with sand and gravel aquifers within the Town of Washington. Said map may be modified by the Town Board by zoning amendment so as to correct or clarify the extent of the Town's aquifers; to incorporate additional aquifers; to eliminate from the jurisdiction of this local law particular aquifers deemed to be insignificant for the purposes of this local law; or to incorporate or replace with supplementary maps that correct, clarify, or affirm in detail the area of jurisdiction of this local law. Until such time as a zoning amendment adopting an Aquifer Protection Map is passed, this section of the law shall have no effect.

3. Effects of District. The AQ District shall be a Supplemental overlay district mapped in conjunction with underlying residential or nonresidential districts. The AQ District shall apply the requirements of this section together with all ~ limitations and requirements applicable in the underlying district.

4. The applicant for any proposed action requiring a subdivision approval, special use permit, site plan approval, variance, building permit, certificate of occupancy, or other authorization under this local law or land subdivision regulations shall be responsible for verifying whether or not the subject property is within the AQ District as identified by the Town's official Aquifer Protection Map.

5. Review of Actions. The Planning Board, Zoning Board of Appeals, or Zoning Administrator, as appropriate to each approval, shall hear and decide upon any application for a proposed action within the AQ District. In addition to the maps, plans, and information required for such authorizations, or for review under the New York State Environmental Quality Review Act, the reviewing board or zoning administrator may require additional information, analysis, or documentation as may be necessary and appropriate to show compliance with the standards imposed by this section, and to fully and properly consider the particular action proposed.

6. Decision. Every decision on each AQ District proposed action shall include written findings of fact, specifying the reason or reasons for such decision, and shall contain a statement which shall set forth the decision to grant approval, to grant approval subject to expressly stated conditions or safeguards, or to deny approval. Every resolution shall expressly set forth any limitations, conditions, or safeguards imposed to satisfy t:

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requirements of this section. Violation of such conditions or safeguards shall be a violation of this local law.

7. Standards. No proposed action within the AQ District shall be approved unless the reviewing board or official finds that based upon available information, analysis, and evidence, the proposed action will not:

a. Alter the subsurface flow of groundwater to private water supply wells and existing and

potential public water supply wells.

b. Degrade the quality of groundwater through the introduction of sewage wastes, storm water runoff, liquid chemicals, petroleum products, dissolved metals, or other toxic substances.

c. Increase the long-term risk of groundwater contamination through the siting, establishment, or expansion of uses which store, transport, or utilize significant quantities of material which is potentially harmful to groundwater quality.

d. Increase the long-term risk of groundwater contamination through the introduction of relatively small quantities of hazardous or toxic substances which, over a period of time, may accumulate in groundwater.

e. Increase the risk of groundwater contamination through the removal of soil, sand, stone, or gravel which provides a protective mantle for groundwater or which is part of the geologic deposits making up the Town's aquifers.

8. Use Requirements. The following use limitations and requirements shall apply to all land within the AQ District:

a. Disposal Wells. The installation or use of disposal wells is prohibited.

b. Recharge Basins. The installation or use of storm water runoff recharge basins is prohibited.

c. Snow Disposal. The stockpiling or dumping of snow removed from Town streets and public or private parking lots is prohibited.

d. Animal Wastes. Farm animal wastes shall not be concentrated in one area except where provision has been made to prevent seepage into groundwater. Suitable storage facilities are required when it is not possible to spread or dispense of wastes on a daily basis.

e. Industrial Sludge and Toxic Chemicals. No toxic chemicals identified by the United States Environmental Protection Agency or the New York Department of Environmental Conservation shall be stored except under permit from those agencies.

f. Wastewater Lagoon and Pits. Use of wastewater lagoons and pits for temporary storage of wastewater is prohibited. All storage facilities shall be water tight, located above ground, and under permit by the New York Department of Environmental Conservation.

g. Disposal. Disposal of toxic chemicals, industrial sludge, or radioactive materials is prohibited.

h. Fertilizer Storage. All bulk storage of artificial fertilizers for agricultural or commercial use must be within

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a completely enclosed building or structure which will prevent any seepage and runoff.

Pesticide and Herbicide Use. No pesticides or herbicides shall be stored or applied unless expressly authorized following review under the procedures and standards of this section. All such use, storage, or application shall be under permit as provided by the State Environmental Conservation Law.

j. Storage Tanks and Pipelines. The installation, construction, placement, or replacement of new or existing underground storage tanks, pipelines, or containers for petroleum products or any other toxic chemical is prohibited. All above ground storage tanks, pipelines, and transfer areas, shall to the maximum extent feasible, be designed to minimize the risk of groundwater

contamination by incorporating backup containment structures, impervious surfaces, catchment areas, and other features. The Town reserves the right to prohibit installation or expansion of above ground storage tanks and pipelines where consistent with the purpose and standards of this section. Further, the owner of any storage tank, pipeline, container, or transfer area is responsible for prompt reporting of any spills or leaks and for the cost of cleanup, containment, and damages.

k. Salt and Coal Stockpiles. The storage of chloride salts, nitrate salts, or coal is prohibited except in a completely enclosed building or structure which will prevent any seepage and runoff containing such materials.

l. Water Wells. All water supply wells shall be constructed in accordance with the requirements of the Dutchess County Department of Health.

m. Abandoned Wells. All abandoned wells shall be sealed in accordance with the requirements of the Dutchess County Department of Health.

9. Applicability. All new development, uses, or activities in the AQ District as identified in Subsections 7 and 8 above of this local law are subject to the requirements of this local law. Existing development, uses, or activities located within the AQ District are not subject to the requirements of this local law and are considered permitted nonconforming uses or activities. Any change in the permitted nonconforming use or activity will be subject to the requirements of the AQ District Regulations.

315. AGRICULTURAL PROTECTION OVERLAY DISTRICT REGULATIONS

1. Purpose. The Agricultural Protection Overlay District (hereinafter the D'APO District") is intended to:

- a. preserve agricultural land for food and fiber production;
- b. protect agriculturally productive farms;
- c. maintain a viable agricultural base to support agricultural processing and service industries;
- d. prevent conflicts between incompatible land uses;
- e. reduce costs of providing public services to scattered non-farm uses;

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- f. pace and shape public growth of the Town;
- g. protect agricultural land from encroachment by non-agricultural uses structures or activities; and
- h. maintain the rural natural, and scenic qualities of the Town.

2. Agricultural Protection Overlay District Description

a. The APO District boundary is herein established as an overlay district covering land zoned in districts RR-10, RL-5 and RM-2, and mapped according to the following criteria: (1) parcels of land of at least ten acres on which at least fifty percent (50%) of the soils are classified in any of the following categories, as established by criteria of the Soil Conservation Service, United States Department of Agriculture: prime farmland soils, farmland soils of statewide importance, unique farmland soils, and farmland soils of local importance (hereinafter the "agricultural soils");

(2) parcels of land included in an agricultural district established pursuant to the New York Agriculture and Markets Law, Article 25~AA.

b. The Town Board shall adopt an official Agricultural Protection Map pursuant to the zoning amendment provisions of Article V. Until such zoning amendment is adopted, this Section shall have no effect. Said map will identify the approximate locations of all agricultural soils, of parcels containing at least fifty percent (50%) agricultural soils, and of parcels within agricultural districts established pursuant to Article 25~AA of the Agriculture and Markets Law..

3. Uses Permitted in the APO District. In addition to the uses permitted in the underlying zoning district, other uses permitted as of right in the APO District include:

- a. Beekeeping;
- b. Dairying;
- c. Floriculture (cultivation of ornamental flowering plants);
- d. Livestock grazing;
- e. Livestock raising; horse stables and paddocks (private);
- f. Poultry raising, when the operation involves fewer than 5,000 birds;
- g. Plant nurseries and orchards;
- h. Raising of grain, grass, mint;
- 1. Raising of tree fruit, nuts, and berries;
- j. Sod farming;
- D~k. Vegetable raising;
- 1. Viticulture (grape growing);
- m. Forest and game management;
- n. Equestrian trails
- 0. Nature trails and walks;
- p.
- q.
- r.

Greenhouses;

Composting of manure and vegetative wastes; One roadside stand per farm, of not more than 500 square feet, in which at least 50% of the products sold are produced on the premises or adjoining premises..

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4. Uses Allowed in the APO District by Special Permit. In addition to the uses allowed by special permit in the underlying district, the following uses shall be permitted by special permit in the APO

District:

- a. Employee housing for farm workers and accessory residences for members of the immediate family of the farm owner or operator. Such additional residential structures must be constructed in a manner that does not detract from the scenic views described in the visual resources mapping series and that avoids, to the extent practical, building upon the best agricultural soils on the property.

b. Agriculture-related service or commercial uses including but not limited to: the sale of farm products in facilities greater than 500 square feet; the sale and service of farm machinery; the storage and sale of seed, feed, fertilizer, manure, and other agricultural products, the centralized bulk collection, storage, and distribution of agricultural products; veterinary services; and processing of agricultural products.

c. Barn conversions, subject to the requirements set forth in Section 33, Barn Conversions, of this local law.

5. Special Permit Approval Standards.

a. The Planning Board, prior to granting special permit approval for development in the APO District pursuant to Section 470 et seq. of this local law shall consider the following relevant factors in addition to the standards set out in Section 47:

this local law:

- (1) The statement of purpose of this local law and the APO District Regulations;
- (2) The potential for conflict with agricultural use;
- (3) The need of the proposed use for a location in an agricultural area;
- (4) The availability of alternative locations;
- (5) Compatibility with existing or permitted uses on adjacent lands;
- (6) The agricultural productivity of the lands or soils involved;
- (7) The need to minimize the amount of agricultural soils converted to non-agricultural use;
- (8) The need for public services created by the proposed use;
- (9) The availability of adequate soils for subsurface sewage disposal or public services, and the ability of the Town to provide them without an unreasonable burden;
- (10) The effect of the proposed use on water or air pollution, soil erosion, and rare or irreplaceable natural resources;
- (11) The location of the use so as to minimize the interruption of scenic vistas from public roadways; and
- (12) The feasibility of designing the structure or the lot to take maximum advantage of solar heating and cooling opportunities.

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b. Conditions Which May Be Attached to Special Permit Approval.

Upon consideration of the information supplied to the Planning Board and a review of the standards contained in Subsection

(a) above, the following conditions may be attached to the granting of a special permit:

- (1) Increased setbacks and yards;
- (2) Specifications for water supply, liquid waste, and solid waste disposal facilities;
- (3) Additional landscaping and vegetative screens or buffers;
- (4) Time of operation;
- (5) Air pollution controls;
- (6) Location of the use; and
- (7) Similar requirements found necessary to fulfill the purpose of this local law.

Violation of these conditions shall constitute a violation of this local law as provided in Section 490, Violations.

6. Procedures for Residential Development in the APO District.
 - a. An applicant for residential subdivision proposed on a parcel or set of contiguous parcels that fall within the APO District description is encouraged to utilize the provisions of Section 316, Private Roads, of the Town of Washington Land Subdivision Regulations;
 - b. Any development of five (5) or more residential lots on a parcel or set of contiguous parcels that fall within the APO District description shall be subject to the procedures of Section 612, Cluster Development, of the Town of Washington Land Subdivision Regulations. In designing a cluster plan, the applicant shall comply with the standards set forth in Subsection 7 below. For purposes of determining the coverage of this Subsection (b), "parcel" shall relate back to tax parcels in existence as of January 1, 1988. All subdivisions since that date shall be treated cumulatively in establishing the number of lots that trigger the requirements of this Subsection (b).
 - c. Any subdivision of up to four (4) lots on a parcel or section of a parcel proposed in the APO District is encouraged to use the procedures established in (Alternative: shall be subject to the requirements of) Section , Mini~Clusters, of the Town of Washington Land Subdivision Regulations.
7. Standards for Residential Development in the APO District
 - a. Residential structures in the APO District shall be located according to the following criteria (some of which may conflict with each other on a particular site):
 - (1) In the least fertile agricultural soils and in a manner which maximizes the usable area remaining for agricultural use;
 - (2) In locations least likely to block or interrupt scenic vistas, as seen from public roadways according to the guidelines of the Visual Resources Mapping Series;
 - (3) Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland to reduce conversion of agricultural soils, provide summer shade and

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- shelter from winter wind, and to enable new resident development to be visually absorbed by natural landscape features;
- (4) On the most suitable soils for subsurface sewage disposal (in ancyroid areas only);
 - (5) In such a manner that the boundaries between house lots and active farmland are well buffered by vegetation, topography, roads, or other barriers to minimize potential conflict between residential and agricultural uses; and
 - (6) In locations where the greatest number of units could be designed to take maximum advantage of solar heating opportunities.
- b. Buffer zones at least seventy-five (75) feet in width shall be required between residential and agricultural uses in the APO District, and shall either be thickly planted with fast-growing native shrubs and trees, or shall retain naturally existing vegetation to create an effective barrier separating residential yards from fields and pastures.

316. ENVIRONMENTAL PRESERVATION DISTRICTS. AND REGULATIONS

1. Purpose. An Environmental Preservation District (hereinafter an "EP District") is defined as a geographic area of the Town of Washington exhibiting special and distinctive environmental characteristics which are of significant value to the public; these characteristics may include natural phenomena such as unique geologic strata, soil formations, slopes,.

vegetation, scenic vistas, viewsheds, and trail or wildlife migration corridors,
8 well as historic or cultural resources of value to the Town. Maintaining the Town's
quality of life depends in large part upon the protection of these areas. To preserve these
valued resources it is necessary first to identify the areas with special qualities, and then to
provide a means by which these areas shall be subject to development controls, over and above
the controls provided by existing zoning district and overlay zone provisions.

2. Creation. The Town Board may, from time to time, create EP Districts, as set forth
below. The establishment of EP Districts shall be in accordance with the zoning amendment
procedures set forth in Article V of this local law, and EP District boundaries shall be based upon
the natural characteristics of the resource lands identified. The Conservation Advisory
Commission may recommend creation of EP Districts to the Town Board.

a. The Conservation Advisory Council shall prepare and submit to the Town Board a
Development Guidelines Report (DGR) for each EP District proposed to be established. The
DGR shall contain a boundary map for the district and the justifications for establishment of said
district. The DGR shall describe the distinctive natural characteristics which are to be protected
and the types of development which would be most likely to threaten the protected resource
values. The DGR shall recommend mitigation measures including modified uses and zoning
densities to protect these areas from the negative~ impacts of development.